

Department of Energy

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equivalent airfare offered during normal business hours are unallowable except when such accommodations require circuitous routing, require travel during unreasonable hours, excessively prolong travel, result in increased cost that would offset transportation savings, are not reasonably adequate for the physical or medical needs of the traveler, or are not reasonably available to meet mission requirements. However, in order for airfare costs in excess of the standard airfare to be allowable, the applicable condition(s) must be documented and justified.

(e)(1) "Cost of travel by contractor-owned, -leased, or -chartered aircraft," as used in this paragraph, includes the cost of lease, charter, operation (including personnel), maintenance, depreciation, insurance, and other related costs.

(2) The costs of travel by contractor-owned, -leased, or -chartered aircraft are limited to the standard airfare described in paragraph (d) of this subsection for the flight destination unless travel by such aircraft is specifically required by contract specification, term, or condition, or a higher amount is approved by the contracting officer. A higher amount may be agreed to when one or more of the circumstances for justifying higher than standard airfare listed in paragraph (d) of this subsection are applicable, or when an advance agreement under paragraph (e)(3) of this subsection has been executed. In all cases, travel by contractor-owned, -leased, or -chartered aircraft must be fully documented and justified. For each contractor-owned, -leased, or -chartered aircraft used for any business purpose which is charged or allocated, directly or indirectly, to a Government contract, the contractor must maintain and make available manifest/logs for all flights on such company aircraft. As a minimum, the manifest/log shall indicate—

- (i) Date, time, and points of departure;
- (ii) Destination, date, and time of arrival;
- (iii) Name of each passenger and relationship to the contractor;
- (iv) Authorization for trip; and
- (v) Purpose of trip.

(3) Where an advance agreement is proposed (see 31.109), consideration may be given to the following:

(i) Whether scheduled commercial airlines or other suitable, less costly, travel facilities are available at reasonable times, with reasonable frequency, and serve the required destinations conveniently;

(ii) Whether increased flexibility in scheduling results in time savings and more effective use of personnel that would outweigh additional travel costs.

(f) Costs of contractor-owned or -leased automobiles, as used in this paragraph, include the costs of lease, operation (including personnel), maintenance, depreciation, insurance, etc. These costs are allowable, if reasonable, to the extent that the automobiles are used for company business. That portion of the cost of company-furnished automobiles that relates to personal use by employees (including transportation to and from work) is compensation for personal services and is unallowable as stated in 48 CFR 31.205-6(m)(2).

970.3102-05-47 Costs related to legal and other proceedings. (DOE coverage-paragraph (h)).

(h) Costs Associated with Whistleblower Actions.

Section 931.205-47(h) of this chapter is applicable to management and operating contracts under this part and must be included in the contract's cost reimbursement subcontracts.

970.3102-05-70 Preexisting conditions.

Clause 48 CFR 970.5231-4, Preexisting conditions, provides guidance on situations where this category of costs may be allowable.

[65 FR 81009, Dec. 22, 2000. Redesignated at 67 FR 14873, Mar. 28, 2002]

970.3170 Contract clause.

The contracting officer shall insert the clause at 48 CFR 970.5231-4, Preexisting Conditions, in all management and operating contracts.

(a) The contracting officer shall include the clause with its Alternate I in contracts with incumbent management and operating contractors.

(b) The contracting officer shall include the clause with its Alternate II

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in contracts with management and operating contractors not previously working at that particular site or facility.

Subpart 970.32—Contract Financing

970.3200 Policy.

It is the policy of the DOE to finance management and operating contracts through advance payments and the use of special financial institution accounts.

970.3200-1 Reduction or suspension of advance, partial, or progress payments.

(a) The procedures prescribed at 48 CFR 32.006 shall be followed regarding the reduction or suspension of payments under management and operating contracts.

(b) Agency head responsibilities under 48 CFR 32.006 have been delegated to the Senior Procurement Executive.

(c) The remedy coordination official is responsible for receiving, assessing, and making recommendations to the Senior Procurement Executive.

970.3200-1-1 Contract clause.

The contracting officer shall insert the clause at 48 CFR 970.5232-1, Reduction or suspension of contract payments, in management and operating contracts.

970.3204 Advance payments.

970.3204-1 Applicability.

(a) The Head of the Contracting Activity shall authorize advance payments without interest, and approve the findings, determinations and the contract terms and conditions concerning advance payments in accordance with the procedures set forth in 48 CFR subpart 32.4, Advance Payments, as supplemented by 48 CFR subpart 932.4.

(b) Advance payments shall be made under a payments cleared financing arrangement for deposit in a special financial institution account or, at the option of the Government, by direct payment or other payment mechanism to the contractor.

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(c) Prior to providing any advance payments, the contracting officer shall enter into an agreement with the contractor and a financial institution regarding a special financial institution account where the advanced funds will be deposited by the Government. Such agreement shall:

(1) Provide that DOE shall retain title to the unexpended balance of funds in the special financial institution account including collections, if any, deposited by the contractor;

(2) Provide that the title in paragraph (c)(1) of this subsection shall be superior to any claim or lien of the financial institution of deposit or others; and

(3) Incorporate all applicable requirements, as determined by the Office of Chief Financial Officer.

(d) Deviations from the requirements cited in paragraph (c) of this subsection shall be considered a deviation requiring approval of the Head of the Contracting Activity.

(e) Letter-of-credit arrangements shall be prepared in accordance with 48 CFR 32.406, Letters of Credit, and shall be coordinated between the procurement and finance organizations.

970.3270 Standard financial management clauses.

(a) The following DEAR and FAR clauses are standard financial management clauses. The contracting officer shall insert them in all management and operating contracts:

(1) 48 CFR 970.5232-2, Payments and Advances.

(i) The contracting officer shall insert the basic clause with its Alternate I if a separate fixed-fee is provided for a separate item of work.

(ii) The contracting officer shall insert the basic clause with its Alternate II when total available fee provisions in the basic clause are used.

(iii) The contracting officer shall insert the basic clause with its Alternate III in management and operating contracts with integrated accounting systems.

(iv) The contracting officer shall insert the basic clause with its Alternate IV in management and operating contracts without integrated accounting systems.